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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,035	02/02/2006	Clive Alan Brown	20860/09001	6767

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NELSON MULLINS RILEY & SCARBOROUGH, LLP  
1320 MAIN STREET, 17TH FLOOR  
COLUMBIA, SC 29201

EXAMINER
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CYGAN, MICHAEL T

ART UNIT	PAPER NUMBER
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2855

MAIL DATE	DELIVERY MODE
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03/17/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/532,035	<b>Applicant(s)</b> BROWN, CLIVE ALAN	
	<b>Examiner</b> Michael Cygan	<b>Art Unit</b> 2855	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4,6,7,9-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,7,9-16 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 6 and 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09 August 2007 has been entered.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 7, 9, 13-16, and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by McLeod et al (US 2002/0004694 A1). McLeod discloses the claimed invention, a device for testing exhaust emissions comprising a base station [62] having memory and printer (paragraphs 159-174) having docking ports ([60]; paragraph 164) for a portable gas sensor including a gas analyzer [500] ([48], paragraphs 156-158) that

receives power from an attached power pack (paragraph 158) and a portable display device (paragraphs 71-81) comprising a keypad (paragraph 72), wherein the sensor and display device are detachable from the base station for independent use (paragraphs 160, 162, 164, 174), wherein the data may be transmitted and received wirelessly through radio signals (paragraph 175). The docking port may orient the display device 48 on base station 62; see paragraphs 196 and 198 ("data processor 62 **may** or may not conjoin user interface unit 48" (emphasis added)).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over McLeod (US 2002/0004694 A1) in view of in view of Vojtisek-Lom (US 6,435,019 B1). McLeod teaches the claimed invention except for the use of an engine speed sensor and an oil temperature probe wirelessly connected to the display device. Vojtisek-Lom teaches an exhaust sensor system having an oil temperature sensor [29] and an engine speed sensor [18], where the sensor results are sent to a computer (column 4 lines 11-31 and 63-65; column 5 line 58 through column 6 line 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use engine speed sensor and an oil temperature probe as taught by Vojtisek-

Lom in the invention taught by McLeod to gather additional sense data to be sent wirelessly to the operator display, since this would provide the operator with more useful data about auto operation.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over McLeod (US 2002/0004694 A1) in view of Doyle (US 2003/0159044 A1). McLeod teaches the claimed invention except for the use of a smart card reader. Doyle teaches the use of a smart card reader [430] for ensuring the security of a station. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a smart card reader as taught by Doyle in the invention taught by McLeod, since this would limit unauthorized access to privileged information.

### ***Allowable Subject Matter***

Claims 6 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, since the prior art neither discloses nor fairly teaches a docking port including a heater capable of maintaining a sensor at a desired temperature in combination with the other positively recited elements of the claims.

### ***Response to Arguments***

Applicant's arguments filed 11 January 2008 have been fully considered but they are not persuasive.

As a preliminary matter, examiner reaffirms the characterization of data processor [62] as the element in McLeod meeting the claimed "base station" element in the claims. "[B]ase station" is given the broadest reasonable definition consistent with the specification, which does not define the term. The base station of applicant's specification appears to be a processing device connectable to data input and output devices; therefore the data processor [62] of McLeod appears to read on the claimed "base station".

With regards to operation of individual component devices apart from the base station [62], applicant argues that the claims require each device to wirelessly communicate with each other device. McLeod discloses, in very broad and encompassing terms, wireless communication between unconnected devices as an alternative to wired connection between connected devices. At paragraph 175, McLeod teaches wireless connectivity as an alternative to "solid medium" connectivity, i.e.; cables or wires. While applicant states that paragraph 177 requires serial communication channels, paragraph 177 is limited to one embodiment ("[I]n the present embodiment"); whereas paragraph 175 speaks to broader variants. If applicant is arguing that serial communication cannot be wireless, such argument fails since the technological state of communications art is such that "serial" communication may be "wireless".

Applicant next argues that McLeod does not teach that the gas sensor and display device are detachable for independent use. However, paragraph 63 states that component devices need not be physically connected to function in their desired

manner; therefore devices such as gas sensor and display device may be disconnected physically from the base station yet still perform as desired.

Applicant then argues that McLeod does not teach that the gas sensor and display device each include power packs usable when remote from the base station. The gas sensor receives power from an attached power pack (paragraph 158). The portable display device (paragraphs 71-81) receives power from, e.g., a 3.5 V power supply [110]; see Figure 3.

Applicant characterizes McLeod's invention as a module that, while having separable sub-modules, does not function unless the sub-modules are physically connected and connected through serial, wired connections. While McLeod provides embodiments and examples that follow this description, McLeod discloses disconnected, wireless alternatives to these embodiments at paragraphs 63 and 175. It would be incorrect to limit the disclosure of McLeod to certain connected, wired embodiments to the exclusion of the broader disclosure of wireless, disconnected device operation.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cygan whose telephone number is (571) 272-2175. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on 571-272-2180. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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/Michael Cygan/  
Primary Examiner, Art Unit 2855